

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Joseph A. Kiggins,

Plaintiff,

vs.

**ABN AMRO Mortgage Group, Inc.,
et al.,**

Defendants.

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CASE NO. 1:12 CV 184

JUDGE PATRICIA A. GAUGHAN

Memorandum of Opinion and Order

Introduction

This matter is before the Court upon defendants Bank of America N.A., BAC Home Loans Servicing L.P., and MERS' Motion to Dismiss (Doc. 13). For the following reasons, the motion is UNOPPOSED and GRANTED.

Discussion

Plaintiff Joseph A. Kiggins filed his Complaint against defendants ABN AMRO Mortgage Group, Inc., Mortgage Electronic Registration Systems, Inc. (MERS). CitiMortgage, Inc., BAC Home Loans Servicing LP, and Bank of America N.A. (BANA). Plaintiff seeks to have this Court void his contractual obligations under the terms of certain

mortgage loans based on his allegation that MERS does not have the capacity to assign any interest in a loan and that any such transfers are fraudulent. Plaintiff previously dismissed with prejudice defendants ABN AMRO Mortgage Group, Inc. and CitiMortgage, Inc. The remaining defendants moved to dismiss the Complaint. Plaintiff failed to oppose the motion.

The Sixth Circuit has recognized that where the “plaintiff fails to respond or to otherwise oppose a defendant's motion, then the district court may deem the plaintiff to have waived opposition to the motion.” *Humphrey v. United States Attorney General’s Office*, 279 Fed.Appx. 328 (6th Cir. 2008) (citing *Scott v. State of Tennessee*, 1989 WL 72470 (6th Cir.1989) (The district court granted defendants’ unopposed motions to dismiss, finding “them to be well-taken for the reasons discussed therein.” On appeal, the court determined that plaintiff had waived his arguments by failing to oppose the motions.)

The Court has examined the unopposed motion and finds it to be well-taken for the reasons set forth in the motion. Defendants have recited the facts as alleged in the Complaint and have demonstrated that the Complaint fails to state a claim.

Conclusion

For the foregoing reasons, defendants Bank of America N.A., BAC Home Loans Servicing L.P., and MERS’ Motion to Dismiss is granted.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 4/3/12